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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/416,278	10/14/1999	BRADLEY S. TEMPLETON	21892-03950	5956
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FENWICK & WEST LLP SILICON VALLEY CENTER 801 CALIFORNIA STREET MOUNTAIN VIEW, CA 94041			EXAMINER VAN DOREN, BETH	
			ART UNIT	PAPER NUMBER
			3623	

DATE MAILED: 11/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/416,278

Applicant(s)

TEMPLETON, BRADLEY S.

Examiner

Beth Van Doren

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-8,28-35,37-49,53-57,72 and 73 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28-31, 53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1,3-8,28-35,37-49,53-57,72 and 73 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

1. The following is a non-final office action in response to the communications received 08/15/2005. In this response, Applicant elected Group I with traverse. Therefore, claims 9, 12-16, 58-59, 62-65, and 68-71 were withdrawn. Claims 1, 4-6, 8, 28, 32, 33, 35, 37-42, 49, and 53 have been amended and claims 72 and 73 have been added. Claim 36 has been canceled. Claims 1, 3-8, 28-35, 37-49, 53-57, and 72-73 are now pending in this office action.

Response to Restriction Requirement

2. Applicant's election of Group I in the reply filed on 08/15/2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Examiner Note

3. In the remarks on page 12 of the current communications, Applicant states "The independent claims as amended retain the language previously identified as placing the claims in condition for allowance." Examiner points out that she has not indicated any claims or any claimed subject matter as allowable thus far in prosecution. Therefore, this statement does not accurately apply to any action by the Examiner.

Response to Amendment

4. Applicant's amendments to claims 1, 4-6, 8, 28, 32, 33, 35, 37-42, 49, and 53 and addition of claims 72 and 73 have raised new issues and, after consideration, a new restriction requirement is required.

Election/Restrictions

5. Restriction to one of the following inventions is required under 35 U.S.C. 121:
- I. Claims 1, 3-8, 54-57, 72, and 73, drawn to a system that includes requester systems requesting meetings and target systems (with three systems initiating two meetings, one system in common with both meetings), and a decider system that queues the meeting request and monitors the statuses of the requester and target systems, wherein the decider system is associated with the common system, classified in class, subclass.
 - II. Claims 28-31 and 53, drawn to a system that includes requester systems requesting meetings and target systems, wherein the requests are queued by the requester systems, classified in class, subclass.
 - III. Claims 32-35 and 37-49, drawn to a system that includes requester systems requesting meetings and target systems (with three systems requesting two meetings, one system in common with both meetings). A first server is associated with the common system and a second and third server are associated with the “non-common” system, wherein a deciding agent, classified in class, subclass.

6. The inventions are distinct, each from the other because of the following reasons:

Inventions I, II, and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as connecting to the proxy (decider system) of a user in order to organize a meeting (i.e. no direct communications between requesters and targets and no central server, not associated with any specific party,

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communicating with the servers' of requesters and targets). Invention II has separate utility such as communicating directly with another system user in order to arrange a meeting (i.e. no decider system and no central server communicating with servers of users to arrange a meeting).

Invention III has a separate utility such as a central server coordinating the meetings of requesters and targets via requesters' and targets' servers (i.e. no direct communications between requesters and targets and no decider system acting as a proxy for one party's system with which other parties directly communicate to arrange meetings). See figures 2(a)-2(f). See MPEP § 806.05(d).

7. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Groups II and III, the search required for Group II is not required for Groups I and III, and the search required for Group III is not required for Groups I and II restriction for examination purposes as indicated is proper.

8. A telephone call was made to Ms. Laura Majerus on 10/31/2005 to request an oral election to the above restriction requirement, but did not result in an election being made. Since Applicant elected group I in the communications of 08/15/2005, Examiner has preliminary elected Group II above for the Applicant in order to expedite prosecution. Group II of the current restriction requirement is the group most in accordance with Group I elected by the Applicant.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Claim Objections

9. Claim 53 is objected to because of the following informalities: missing words. Claim 53 recites “program code for determining that the common party and one non-common parties T-A and T-B are”, which should more appropriately be “program code for determining that the common party and one of the non-common parties T-A and T-B are”. Appropriate correction is required.

Claim Rejections - 35 USC § 112

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 28-31 and 53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11. Claims 28 and 53 both recite the limitation "the non-common parties". There is insufficient antecedent basis for this limitation in the claims. For examination purposes, the non-common parties are construed as the requesters and targets not designated as the common party. Claims 29-31 depend from claim 28 and therefore have the same deficiencies. Correction is required.

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

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(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 28-31 and 53 are rejected under 35 U.S.C. 102(e) as being anticipated by Vardi et al. (U.S. 6,389,127).

13. As per claim 28, Vardi et al. teaches a computer-implemented method for the intermediation of real time meetings, comprising:

receiving an indication that a requestor party R-A wants to request a real time meeting M-A with a target party T-A (See column 5, lines 22-38 and 62-63, and column 6, lines 6-8, which discloses the systems of the target parties receiving indications that the requestor party wants to arrange a real time meeting);

receiving an indication that the requestor party R-B wants to request a real time meeting with a target party T-B, the meeting M-B to be disjoint in time with the other meeting M-A (See column 5, lines 62-63, column 6, lines 6-9, and column 7, lines 39-48, 49-52, and 57-65, wherein information is requested and received concerning the availability of a requester and the availability of a target party. See column 6, lines 9-12 and 26-32, and column 7, lines 26-31, which discuss different types of availability);

receiving information indicating the availability of requestor party R-A and the target party T-A to participate in the real time meeting M-A, the information sent by the requestor party R-A and the target party T-A and indicating the desire of a human being to take part in a meeting (See column 2, lines 65-67, column 3, lines 1-9, 15-28, and 40-45, column 7, lines 25-30 and 49-67, and column 8, lines 1-6, wherein after the requester send the request, the status of the requester is also sent by the requester system to the system. The status of the target is also determined);

receiving information indicating the availability of requestor party R-B and the target party T-B to participate in the real time meeting M-B, the information sent by the requestor party R-B and the target party T-B and indicating the desire of a human being to take part in a meeting (See column 2, lines 65-67, column 3, lines 1-9, 15-28, and 40-45, column 7, lines 25-30 and 49-67, and column 8, lines 1-6, wherein after the requester send the request, the status of the requester is also sent by the requester system to the system. The status of the target is also determined);

queuing the request for meetings M-A and M-B by the requester system, such that at least two distinct meetings, disjoint in time, are placed in the queue, and such that one of the parties to M-A, known as the 'common party' is also the same as one of the parties to M-B and thus there are only 3 rather than 4 distinct parties (See column 5, lines 41-43 and 62-63, column 6, lines 6-12, and column 7, 39-44 and 57-64, wherein the requests are held and considered pending until the requested parties are available for the requested meeting to occur. A single requester requests multiple targets);

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determining that the common party and one of the non-common parties are mutually available to participate in the real time meeting, in response to the received information (See column 7, lines 39-48, 49-52, and 57-65, wherein it is determined whether the parties are mutually available. See column 6, lines 9-12 and 26-32, and column 7, lines 26-31, which disclose ways of measuring availability); and

responsive to the determination that the common party and non-common party to M-A are mutually available to participate in the real time meeting M-A, initiating the real time meeting M-A (See column 7, lines 39-48, 49-52, and 57-65, wherein the real time meeting is initiated when parties are available).

responsive to the determination that the common party and non-common party to M-B are mutually available to participate in the real time meeting M-B, initiating the real time meeting M-B (See column 7, lines 39-48, 49-52, and 57-65, wherein the real time meeting is initiated when parties are available).

14. As per claim 29, Vardi et al. discloses a computer-implemented method wherein the initiating further comprises informing the requester party and one or more target parties that they should initiate communication (See column 7, lines 39-47 and 65-67, and column 8, lines 1-6, wherein a request for conference/real time meeting is accompanied with a request to initiate communication with the requester. The requester has the ability to either initiate the meeting when the requester receives status information about the target or the request can be delivered with information about the status of the requester (available, not available for meeting) and request the target to initiate the contact).

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15. As per claim 30, Vardi et al. teaches a computer-implemented method wherein the initiating further comprises requesting the requestor party and one or more target parties to open a connection (See column 7, lines 39-47 and 49-67, and column 8, lines 1-6, wherein the request informs parties to open connections in order to participate in the conference/real time meeting).

16. As per claim 31, Vardi et al. teaches a computer-implemented method wherein the availability of the requestor party and one or more target parties is determined by checking at least one of: start or end of a call, other use of a phone, recent activity at the computer input devices, conversation near a microphone, lights turned on/off, weight in chair or on floor, motion sensor, opening/closing of door, spoken commands, computer keyboard/mouse based commands, touchtone commands, and scheduled periods of availability (See column 6, lines 9-12, 26-32, and column 7, lines 26-31, wherein different ways to determine a party's availability are disclosed).

17. As per claim 53, Vardi et al. discloses a computer program product stored on a computer readable medium for intermediation of real time meetings, the computer program product comprising:

program code for receiving an indication that a requester party R-A wants to request a real time meeting M-A with target T-A (See column 5, lines 22-38 and 62-63, and column 6, lines 6-8, which discloses the system of the target party receiving an indication that the requestor party wants to arrange a real-time meeting);

program code for receiving an indication that a requester party R-B wants to request a real time meeting M-B with target T-B such that one of the parties to M-A, known as the 'common party' is also the same as one of the parties to M-B and thus there are only three

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distinct parties, the meetings M-A and M-B disjoint in time (See column 5, lines 22-38 and 62-63, and column 6, lines 6-8, which discloses the systems of the target parties receiving indications that the requestor party wants to arrange a real time meeting. A single requester requests multiple targets);

program code means for placing in a queue requests for the two distinct meetings M-A and M-B, disjoint in time (See column 5, lines 41-43 and 62-63, column 6, lines 6-12, and column 7, 39-44 and 57-64, wherein the requests are held and considered pending until the requested parties are available for the requested meeting to occur);

program code for receiving information indicating the availability of the common party and the non-common parties to M-A and M-B to participate in the real time meetings M-A and M-B, the information sent by the respective party and indicating a desire of a human being to take part in a meeting (See column 5, lines 62-63, column 6, lines 6-9, and column 7, lines 39-48, 49-52, and 57-65, wherein information is requested and received concerning the availability of a requester and the availability of a target party. See column 6, lines 9-12 and 26-32, and column 7, lines 26-31, which discuss different types of availability);

program code for determining that the common party and one of the non-common parties T-A and T-B are mutually available to participate in the real time meetings M-A and M-B, in response to the received information (See column 7, lines 39-48, 49-52, and 57-65, wherein it is determined whether the parties are mutually available. See column 6, lines 9-12 and 26-32, and column 7, lines 26-31, which disclose ways of measuring availability); and

program code for initiating respective meetings M-A and M-B, responsive to the determination that the common party and at least one of the non-common parties are mutually

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available to participate in respective real time meetings M-A and M-B (See column 7, lines 39-48, 49-52, and 57-65, wherein the real time meeting is initiated when all parties are available).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (571) 272-6737. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


bvd

October 31, 2005


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